

FILED

APR 2 2019

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

Clerk, U.S. Courts
District Of Montana
Missoula Division

**U.S. SPECIALTY INSURANCE
COMPANY,**

CV 17-132-M-DLC

Plaintiff,

ORDER

vs.

**THE ESTATE OF DARRELL L.
WARD and THE ESTATE OF MARK
MELOTZ,**

Defendants.

**THE ESTATE OF DARRELL L.
WARD,**

Counterclaimant,

vs.

**U.S. SPECIALTY INSURANCE
COMPANY,**

Counterdefendant.

The Montana Supreme Court recently issued a published opinion answering the question certified by this Court in its Order of June 29, 2018. That opinion is dispositive of the sole issue presented in the cross-motions for summary judgment

filed by Plaintiff and Counterdefendant U.S. Specialty Insurance Company (“USSIC”) and Defendant and Counterclaimant Estate of Darrell L. Ward (“Ward Estate”). Defendant Estate of Melotz (“Melotz Estate”) did not file a motion for summary judgment, and, as the named insured, the Melotz Estate’s entitlement to insurance proceeds is not in controversy.

The Montana Supreme Court reformulated the certified question as follows:

Is the Estate of Darrell L. Ward entitled to stack the limits of liability coverage for three separate aircraft under the terms of an insurance policy issued to the pilot of an aircraft in which Ward was a passenger at the time it crashed?

U.S. Specialty Ins. Co. v. Estate of Ward, __ P.3d __, 2019 MT 72, ¶ 2. The Court answered that question in the negative, explaining that the “USSIC policy is not subject to stacking of its passenger liability coverages” under the plain terms of the policy, which are consistent with both public policy and the reasonable expectations of the insured. *Id.* at ¶ 21. Because the Montana Supreme Court’s conclusion forecloses the Ward Estate’s entitlement to stacked coverage under the USSIC policy, this Court now grants USSIC’s motion for summary judgment and denies that of the Ward Estate.

Accordingly IT IS ORDERED that USSIC’s motion for summary judgment (Doc. 28) is GRANTED and that the Ward Estate’s motion for summary judgment

(Doc. 33) is DENIED.

IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment for the Plaintiff and Counterdefendant U.S. Specialty Insurance Company and close this case.

Dated this 2nd day of April, 2019.



Dana L. Christensen
Dana L. Christensen, Chief District Judge
United States District Court